

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	8:04CR250
vs.)	
)	ORDER
JOHN A. DAVIS,)	
)	
Defendant.)	

Defendant John A. Davis (Davis) appeared before the court on October 12, 2011, on the Petition for Warrant or Summons for Offender Under Supervision (Petition) (Filing No. 36). Davis was represented by First Assistant Federal Public Defender Shannon P. O'Connor and the United States was represented by Assistant U.S. Attorney Nancy A. Svoboda. Through his counsel, Davis waived a probable cause hearing on the Petition pursuant to Fed. R. Crim. P. 32.1(a)(1). I find there is probable cause that Davis has violated the conditions of his supervised release as alleged, and Davis should be held to answer for a final dispositional hearing before Chief Judge Joseph F. Bataillon.

The government moved for detention. Davis requested a detention hearing which was scheduled for October 18, 2011. On October 18, 2011, Davis again appeared before the court with his counsel, FAFPD O'Connor and the United States was represented by AUSA Svoboda. The court received into evidence a letter from Davis' educational instructor and a packet of documents from the state court proceedings including police reports. While Davis has performed satisfactorily since his last violation of supervised release except for the shooting incident, the facts and reports of the shooting incident is so egregious that the court finds Davis to be danger to this community. Since it is Davis's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, I find he has failed to do so. Davis should be detained pending a dispositional hearing before Chief Judge Bataillon.

IT IS ORDERED:

1. A final dispositional hearing will be held before Chief Judge Joseph F. Bataillon in Courtroom No. 3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 2:00 p.m. on November 4, 2011**. Defendant must be present in person.
2. Defendant John A. Davis is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;
3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and
4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 18th day of October, 2011.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge